

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.101 OF 2012

REPUBLIC

VERSUS

DANFAS NYANUMBA OBANDE - ACCUSED

SENTENCING

1. The accused person **Danfas Nyanumba Obande** pleaded to the lesser offence of **manslaughter contrary to Section 202 as read with section 205 of the penal code.Code**. The particulars thereof of the offence were that on the 23rd day of July 2012 at Obwari Location, Boisanga sublocation at ogencha village Nyamira North District within Nyamira county unlawfully caused the death of **ISABELLA MORAA NYANUMBA**

2. The court directed the Deputy Registrar to call for Probation Officers report for the purpose of arriving at an appropriate sentence of the accused person. Accordingly, the probation Officer Report was filed on 6th July 2015.

3. The accused person is 34 years old. He had four children. The accused came home drunk, quarreled with the deceased over milking of cow and cooking of supper. The accused, assaulted his wife with a panga and children heard their mother say: *"Do not beat me like an enemy."* The following day, the body of the deceased was lying on the foot path she died of cardio pulmonary arrest, secondary to hypothermia.

In mitigation, Momanyi for the accused was arrested on 23rd July 2012 and has been in custody for now three (3) years. He is remorseful. He regrets to have killed his beloved wife. It was purely accidental as he was under the influence of alcohol. He has four children, eldest is 13 years and the youngest is 5 years. These children are without a mother and father. They need parental care. Therefore custodial sentence would be detrimental to both the accused person and the children who need to be taken to school. I urge this court to mix mercy and justice.

4. The family members pray for a lenient sentence to enable him take care of his young children who in the absence of the mother, will solely depend on the accused person.

5. The family though against the offence is positive and willing to assist him resettle and restart his life. They blame his predicament on his temperaments. The community hold the same view being positive and seek a lenient sentence.

6. In view of the reasons above, this court will sentence the accused person to two years non-custodial sentence under the supervision of the probation officer of the area.

7. It is so ordered.

Dated, signed and delivered in open court this 2nd day of October 2015.

HON. C. B. NAGILLAH

JUDGE

In the presence of:

.....for the State

.....for the accused

.....court clerk