



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUSIA**

**HCR NO. 17 OF 2012**

REPUBLIC.....APPLICANT

VERSUS

PETER NYONGESA MAKOKHA.....RESPONDENT

**SENTENCE**

1. The Accused has been convicted of the offence of manslaughter contrary to section 202 of the Penal Code as read with section 205 of the Penal Code. It is now time for this Court to pass sentence. Before doing so I requested the Probation Officer to prepare a social inquiry report of the Accused that could help the Court arrive at an appropriate sentence. That report was filed on 3<sup>rd</sup> December 2014.

2. The report paints the Accused as a person with a violent past and struggling with an alcohol problem. And that although he relates well with his family members, his relationship with his immediate neighbours and other members of the community was strained due to his violent tendencies.

3. The circumstances of the incident that led to the death of his wife are that the Accused had sent her to grind floor at a local posho mill. She returned home 12 hours later at 11.00 p.m. while drunk with neither the maize itself nor the maize floor. This infuriated the Accused who turned on her and hit her using a stick. An effort by their son to intervene was unsuccessful. A fight appears to have taken place again later in the night which led to the death of the Deceased.

4. In mitigation. The Court was urged to be lenient as the Accused was sickly and has been in remand since 14<sup>th</sup> October 2012. The Accused was also remorseful.

5. This Court has considered the Probation Report, the mitigation and the circumstances of the offence. A life has been lost needlessly in the hands of the Accused who appears to be a man of violent disposition. His reaction to a lapse by his wife was barbaric and out of proportion. The Accused should not be allowed to get away too easily. A non-custodial sentence would therefore not be appropriate. Yet this Court cannot overlook that the Accused is suffering from poor health and with each Court appearance one notices deterioration.

6. The court now imposes a prison term of five (5) years with effect from 16<sup>th</sup> October 2012 when the Accused first appeared before Court in respect to this offence.

**F. TUIYOTT**

**JUDGE**

**DATED, DELIVERED AND SIGNED AT BUSIA THIS 4<sup>TH</sup> DAY OF DECEMBER 2014.**

**IN THE PRESENCE OF:**

**KADENYI .....COURT CLERK**

**OWITI.....FOR STATE**

**JUMBA H/B FOR OTANGA FOR ACCUSED**