



**Republic v Isaac (Anti-Corruption Case 9 of 2015) [2020] KEMC 3 (KLR)
(Anti-Corruption and Economic Crimes) (8 September 2020) (Ruling)**

Republic v Ibrahim Haji Isaac [2020] eKLR

Neutral citation: [2020] KEMC 3 (KLR)

**REPUBLIC OF KENYA
IN THE ANTI-CORRUPTION MAGISTRATE'S COURT
ANTI-CORRUPTION AND ECONOMIC CRIMES
ANTI-CORRUPTION CASE 9 OF 2015
LN MUGAMBI, CM
SEPTEMBER 8, 2020**

BETWEEN

REPUBLIC PROSECUTOR

AND

IBRAHIM HAJI ISAAC ACCUSED

RULING

1. The DPP, pursuant to a letter dated 14.8.2020 ref ODPP/CAM/5/014/221 wrote to this court seeking to withdraw this Criminal Case against the accused Ibrahim Haji Isaak under section 87 [a] of the Criminal Procedure Code [CPC]
2. This was on the strength of the fact the High Court had via Civil Case, ACEC 25/2016 found the accused liable for the amount of Kshs.11.5 Million belonging to Kenya Meat Commission through the EACC which is also the subject of this Criminal Case.
3. When M/s Kanyuira made the application for withdrawal under section 87 [a] of the CPC on behalf of DPP on 14.7.2020 the court noted that although the Criminal process and Civil process are distinct, it was persuaded that if the money belonging to Kenya Meat Commission [KMC] was to be refunded by the accused in terms of the High Court Judgment, it was willing to consider and grant the application for withdrawal of the charge under section 87 [a] of the Criminal Procedure Code as proposed by the DPP.



4. By then however, accused had not shown any form of commitment and entered into any proposal with EACC on the Judgment in question. Hence the court stated:-

“... There has been no down payment or an agreement entered between him and EACC on what he proposes to make a settlement. This court would be failing in its duty to protect Public interest if it were to allow the withdrawal under section 87 [a] of CPC on the strength of the Civil Judgment when it has not been demonstrated that the interest of the Public will not be put in jeopardy.

Consequently, though in principle, the court is ready to and willing to accede to that application on strength of the said Judgment, in ACEC 25/2016; I direct that at least; there be a demonstration of good faith on the part of accused to honour his obligations dictated by that Judgment to persuade me to accede to the withdraw

Consequently, I direct that the matter be mentioned in a month's time for the prosecution and accused to report to this court, either an agreement or down payment has been made to enable this court grant the application....”

5. Today, pursuant to this order, it has been demonstrated that accused did in fact through his advocate wrote to EACC on 30.7.2020 where he made a proposal to withdrawal Civil Appeal No.232/2020 and went further to indicate the manner he wanted to settle the decretal amount of 11.5 Million, which is also the subject of the charge against him. He indicated he would pay 30% of the decretal sum Kshs.3,450,000/= which he has demonstrated he has since paid.
6. The rest of the payment is to be agreed between him and EACC.
7. I am satisfied that accused has demonstrated some good faith towards settling the amount and EACC is already engaging him in that process and has received initial payment.
8. I thus concur with the request of the DPP to withdraw these charge against the accused under section 87 [a] of the CPC in the circumstances of this case and discharge the accused accordingly.

L.N. MUGAMBI [MR]

CHIEF MAGISTRATE

8.9.2020

Ms Githongori – I seek for refund of cash bail of Kshs.100,000/= deposited 28.5.2015.

Ms Kanyuira – No objection.

Court – Cash bail of Kshs. One Hundred Thousand [Kshs.100,000/=] deposited via receipt No.0360855 on 28.5.2015 to be refunded to the depositor.

L.N. MUGAMBI [MR]

CHIEF MAGISTRATE

8.9.2020

