



**Republic v Njeru (Anti-Corruption Case 15 of 2017) [2017] KEMC 121 (KLR)
(Anti-Corruption and Economic Crimes) (24 August 2017) (Ruling)**

Republic v Henry Ngugi Njeru [2017] eKLR

Neutral citation: [2017] KEMC 121 (KLR)

**REPUBLIC OF KENYA
IN THE ANTI-CORRUPTION MAGISTRATE'S COURT
ANTI-CORRUPTION AND ECONOMIC CRIMES
ANTI-CORRUPTION CASE 15 OF 2017**

LN MUGAMBI, CM

AUGUST 24, 2017

BETWEEN

REPUBLIC PROSECUTOR

AND

HENRY NGUGI NJERU ACCUSED

RULING

1. The charges against the accused for which he is before me for plea are expressed to be brought under section 39 [3] [a] as read with section 48[1] of *Anti-Corruption & Economic Crimes Act No.3 of 2003*.
2. The offence is alleged to have been committed on 5.11.2016. The new *bribery Act* No.47 of 2016 took effect from 13.1.2017. It repealed Section 39 of Anti-Corruption & Economic Crime Act by dint of Section 23 of the Act.
3. Of concern to this court however, in reference to the present charges is Section 27 [2] which addresses the issue of pending case, or investigations that were being under taken under Anti-Corruption & Economic Crimes Act, 2003.
4. In particular, Section 27 [2] reads:-

“ Any investigation or prosecution or court proceedings instituted before the commencement of this Act, based on an offence under this Act shall, with necessary modifications, be treated or continued as if they were instituted under this Act”
5. In essence therefore, it means if an investigation was commenced under the old Act, but by the time Section 39 of ACECA was being repealed, it was not yet completed, then following the



commencement of the *Bribery Act*, the new Act takes over and such charges or report of that investigations can only be expressed to be under the new Act and not the old provision, of ACECA as the prosecution attempts to do in this case.

6. Consequently, I decline to accept the charges as framed suo moto for non compliance with the law as clearly expressed. I discharge the accused under section 89 [5] of the Criminal Procedure Code.

L.N. MUGAMBI [MR]

CHIEF MAGISTRATE

24.8.2017

