

**Bhoja Ram Vs. Emperor**

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**Court :** Chennai

**Decided On :** Feb-03-1912

**Reported in :** 13Ind.Cas.927

**Judge :** Chevis, J.

**Appellant :** Bhoja Ram

**Respondent :** Emperor

**Judgement :**

**Chevis, J.**

1. The conviction cannot be supported. Though the get-up of the accused's packets of beedies bears considerable resemblance to the get-up of the complainant's packets, and it may be that, the complainant may be entitled in a Civil action to obtain an injunction against the accused's selling his goods in such packets, yet the trademark used by the accused, a crescent encircling a crown over the letters A.M.R. is sufficiently different from the complainant's trade-mark, a crescent encircling a star over the letters A.G.M. I do not think that it can be said that the accused has been guilty of using a false trade-mark, or of selling goods having a counterfeit trade-mark. The dispute is one which may be fitly decided in a Civil Court, vide *Surja Prasad v. Mohabir Prasad Tribedy* 11 C.W.N. 887 : 6 Cri. L.J. 151; *Emperor v. Bukaulah Mallik* 31 C.P 411 : 8 C.W.N. 307 : 1 Cri. L.J. 140 and *Dowlat Ram v. Emperor* 32 C.P 431 : 2 Cri. L.J. 320. The conviction is set

aside and the fine, if paid, must be refunded. The petitioner is entitled to a refund of the sum of Rs. 100 ordered to be paid as costs and to a return of the property directed to be forfeited.

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