

**Bhupinder Singh vs State Of Punjab on 6 April, 1988**

**Dharambir Singh v. State of Punjab, (Criminal Appeal No. 98 of 1958 decided on 4.11.1958) is another case of homicidal action by cyanide poisoning. It was perhaps in this case, the guidelines as to the proof of certain facts in "poison murder cases" were laid down by this Court. It was observed:**

**"Where the evidence is circumstantial the fact that the accused had motive to cause death of the deceased, though relevant, is not enough to dispense with the proof of certain facts which are essential to be proved in such cases, namely (firstly) did the deceased die of poison in question? (secondly) had the accused the poison in his possession? and (thirdly) had the accused an opportunity to administer the poison in question to the deceased? It is only when the motive is there and these facts are all proved that the court may be able to draw the inference, that the poison was administered by the accused to the deceased resulting in his death."**

**From the foregoing cases, it will be seen that in poison murder cases, the accused was not acquitted solely on the failure of the prosecution to establish one or the other requirement which this Court has laid down in Dharambir Singh case. We do not also find any case where the accused was acquitted solely on the ground that the prosecution has failed to prove that the accused had the poison in his possession. The accused in all the said cases came to be acquitted by taking into consideration the totality of the circumstances including insufficient motive, weakness in the chain of circumstantial evidence and likelihood of the deceased committing suicide.**

**The poison murder cases are not to be put outside the rule of circumstantial evidence. There may be obvious very many facts and circumstances out of which the Court may be justified in drawing permissible inference that the accused was in possession of the poison in question. There may be very many facts and circumstances proved against the accused which may call for tacit assumption of the factum of possession of poison with the accused. The insistence on proof of possession of poison with the accused invariably in every case is neither desirable nor practicable. It would mean to introduce an extraneous ingredient to the offence of murder by poisoning. We cannot, therefore, accept the contention urged by the learned counsel for the appellant. The accused in a case of murder by poisoning cannot have a better chance of being exempted from sanctions than in other kinds of murders. Murder by poisoning is run like any other murder. In cases where dependence is wholly on circumstantial evidence, and direct**

evidence not being available, the Court can legitimately draw from the circumstances an inference on any matter one way or the other.

The view that we have taken gets support from the decision of this Court in [Ananth Chintaman Lagay v. The State of Bombay](#), A.I.R. 1960 S.C. 500 where Hidayatullah, J., has given an anxious consideration to the three propositions laid down in Dharambir Singh case. The learned Judge did not consider them as invariable criteria of proof to be established by the prosecution in every case of murder by poisoning. The learned Judge said (at p. 519-520):

"It is now necessary to consider the arguments which have been advanced on behalf of the appellant. The first contention is that the essential ingredients required to be proved in all cases of murder by poisoning were not proved by the prosecution in this case. Reference in this connection is made to a decision of the Allahabad High Court in [Mt. Gajrani v. Emperor](#). AIR 1933 All 394 and to two unreported decisions of this Court in [Chandrakant N Nyalchand Seth v. The State of Bombay](#), Criminal Appeal No. 120 of 1957 decided on February 19, 1958 and [Dharambir Singh v. The State of Punjab](#), Criminal Appeal No. 98 of 1958, decided on 4.11.1958. In these cases, the Court referred to three propositions which the prosecution must establish in a case of poisoning; (a) that death took place by poisoning; (b) that the accused had the poison in his possession, and (c) that the accused had an opportunity to administer the of 1958 D/- 4.11.1958 (SC) turned upon these three propositions. There, the deceased had died as a result of poisoning by potassium cyanide, which poison was also found in the autopsy. The High Court had disbelieved the evidence which sought to establish that the accused had obtained potassium cyanide, but held, nevertheless that the circumstantial evidence was sufficient to convict the accused in that case. This Court, did not, however, accept the circumstantial evidence as complete. It is to be observed that the three propositions were laid down not as the invariable criteria of proof by direct evidence in a case of murder by poisoning, because evidently if after poisoning the victim. the accused destroyed all traces of the body, the first proposition would be incapable of being proved except by circumstantial evidence. Similarly, if the accused gave a victim something to eat and the victim died immediately on the ingestion of that food with symptoms of poisoning and poison, in fact, was found in the viscera, the requirement of proving that the accused was possessed of the poison would follow from the circumstances that the

**accused gave the victim something to eat and need not be separately proved."**