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Crl.A.No. 47 OF 2001  
ITEM NO.104

COURT NO.7

SECTION II

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.47 OF 2001@@  
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AKHTAR HUSSAIN & ORS. ... APPELLANT(S)

VERSUS

STATE OF RAJASTHAN ... RESPONDENT(S)

(With Office Report)

With Crl.A. Nos.48/2001, 49/2001  
(With Office Report)

Date: 24/09/2002. This/These matter(s) were called on for hearing today.@@  
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CORAM:

HON'BLE MR. JUSTICE U.C. BANERJEE  
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant(s) Mr. Anip Sachthey, Adv.  
Mr. Abhay Kumar, Adv.

Ms. Madhurima Tatia, Adv.  
Mr. R.M. Tatia, Adv.  
Mr. Indra Makwana, Adv.

For Respondent (s) Mr. Alok Bachavat, Sr.Adv.  
Ms. Bharati Upadhyaya, Adv.  
Mr.Ranji Thomas, Adv.  
Mr. Sushil Tekriwal, Adv.  
Mr. Javed Mahmud Rao, Adv.

UPON hearing counsel the Court made the following  
O R D E R

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Heard learned counsel for the parties for  
half an hour.

The appeals are dismissed in terms of the  
signed order.

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(K.K. Chawla) (Shelly Sengupta)@@  
AA  
Court Master Court Master

[Signed order is placed on the file]

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an alarm and gave a call to the villagers and also rushed towards the village by reason wherefor some of the villagers came to the spot. Seeing them, the accused persons fled away.

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The Court of Sessions found the evidence acceptable and credit-worthy upon proper appreciation thereof and so did the High Court as a first Appellate Court. Though it has been stated before us during the course of submissions that it is a near impossibility to cover a distance of about 20 kms. within a span of one or two hours or within half past one, as such, the whole incident is said to be fabricated. The other aspect on which the appellants laid stress was as regards the information being sent to the Magistrate since in the case at hand such an information was sent on 16th morning instead of 15th morning.

These pleas were raised before the High Court and also before the learned Sessions Judge but both the forums below negatived the same. We also do not find any significant reason to rely thereon.

On the wake of the evidence available on record we find that the totality of the evidence

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stands appraised by both the courts and it is on this score the High Court recorded that upon consideration and scanning the prosecution evidence carefully, the finding of guilt and the sentence awarded by the learned Sessions Judge cannot be interfered with.

Incidentally, be it noted that it is now well-settled that under Article 136 of the Constitution the Apex Court of the country is not supposed to appraise the evidence and the finding of fact ought not to be interfered with unless the same amounts to a total perversity and miscarriage of justice. In the contextual facts we find neither any perversity nor any miscarriage of justice. In that view of the matter, these appeals fail and are dismissed accordingly.

The accused - appellants are to serve out their remaining sentence.

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.....J.  
(U.C. Banerjee)

.....J.  
(B.N. Agrawal)

New Delhi,  
September 24, 2002.