

IN THE SUPREME COURT OF INDIA
(CRIMINAL ORIGINAL JURISDICTION)
TRANSFER PETITION (CRIMINAL) NO. OF 2020
(Under Section 406 of the Code of Criminal Procedure, 1973
R/w Order XXXIX of the Supreme Court Rules, 2013)

IN THE MATTER OF:

Prashant Bhushan

....Petitioner

V/s

Bhavya Narwal

....Respondent

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(KINDLY SEE INSIDE)

COUNSEL FOR THE PETITIONER: **Ms. KAMINI JAISWAL**

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SYNOPSIS

The Petitioner herein is filing the instant transfer Petition under Section 406 of Code of Criminal Procedure, 1908 read with Order XXXIX of the Supreme Court Rules, 2013 seeking transfer of criminal case of defamation Case: Registration No. 142 of 2019 (Criminal Complaint No. 34 of 2019) titled *Bhavya Narwal, Director, M/s Indiabulls Venture Capital Management Company Ltd.* pending before the Court of Judicial Magistrate 1st Class, Rohtak, Haryana to Patiala House Courts, District New Delhi, Delhi. The Respondent herein has filed the said criminal case of defamation against the Petitioner herein under Section 499, 500 and 501 of the Indian Penal Code, 1860 to obstruct course of justice.

The Respondent herein, who is one of the three directors of M/s Indiabulls Venture Capital Management Co. Ltd. (which is a subsidiary of M/s Indiabulls Housing Finance Ltd.), in the said complaint has alleged that the Petitioner herein has made defamatory statements regarding the functioning of Indiabulls group, its promoters, officials and directors, etc vide social media sites namely, Twitter, Instagram and Facebook. It is alleged that the Petitioner herein has caused substantial damage to the goodwill and reputation of Indiabulls group as well of its Promoters, directors and officials including the Respondent herein etc.

The Petitioner herein is a member-trustee and signing authority of Citizens' Whistle Blowers Forum, the organisation that has filed a WritPetition [*WritPetition (Civil) No. 9887 of 2019*] in public interest before the Hon'ble HighCourt of Delhi against Indiabulls Group and its promoters seeking CBI/SIT investigation into the illegalities that have been committed by it. The allegedly defamatory statements made by the

Petitioner herein were in context of the improper and illegal conduct of the Indiabulls group of companies that is the subject matter of the said WritPetition and are fully supported by large numbers of documentary evidences present in public domain.

It is submitted that the sole purpose of institution of the instant criminal defamation case is a desperate vindictive action of Indiabulls against the Petitioner herein in order to harass him and to obstruct course of justice. The past conduct of the Indiabulls makes it manifestly clear that whenever the illegalities being perpetrated by the Indiabulls are brought out in public domain, it habitually deploys aggressive legal tactics and claims that the research reports /complaints /Petitions are motivated so as to dissuade proper scrutiny.

The Petitioner herein is an advocate who practices in Delhi, mostly before this Hon'ble Court and has number of his cases (mostly PILs) listed before this Hon'ble Court on a daily basis. Because of this, the Petitioner herein will face an obvious and undue difficulty in attending hearings in Haryana, before the Court of Ld. Judicial Magistrate 1st Class, Rohtak. On the other hand, the complainant, Mr. Bhavya Narwal, is one of the three Directors of M/s Indiabulls Venture Capital Management Co. Ltd. The said company has its registered office in Delhi at . Therefore, no inconvenience will be caused to the complainant if the aforesaid defamation case is transferred to any District Court in Delhi subordinate to the Hon'ble HighCourt of Delhi.

List of Dates

Dates	Events
06.09.2019	Citizens' Whistle Blowers Forum (whose member-trustee and signing authority is the Petitioner herein) filed a WritPetition [<i>WritPetition (Civil) No. 9887 of 2019</i>] in public interest before the Hon'ble HighCourt of Delhi against Indiabulls Group and its promoters seeking CBI/SIT investigation into the illegalities that have been committed by it.
14.09.2019	The Petitioner herein tweeted the following statement by quoting a news link of a story dated 14.09.2019 published by India Today titled as " <i>ED says Nirav Modi's brother Nehal Modi laundered over \$100 million for him, destroyed evidence</i> ": - <i>"Strange that Red Notices are issued against scamsters after they flee country. Mallya's notice was downgraded to allow him to flee. None of them have been brought back. Similar story likely to unfold with promoters of Indiabulls who siphoned off 1000s Crs."</i>
26.09.2019	The Respondent herein, who is one of the three directors of M/s Indiabulls Venture Capital Management Co. Ltd. (which is a subsidiary of M/s Indiabulls Housing Finance Ltd.), filed the complaint [<i>Criminal Complaint No. 34 / 2019</i>] under Section 499/500/501 of Indian Penal Code, 1860 against the Petitioner herein alleging that the

Petitioner herein has made defamatory statements regarding the functioning of Indiabulls group, its promoters, officials and directors, etc vide social media sites namely, Twitter, Instagram and Facebook.

27.09.2019 The Hon'ble HighCourt of Delhi was pleased to issue notice to Indiabulls and relevant government authorities on the aforesaid PIL [*WritPetition (Civil) No. 9887 of 2019*].

30.09.2019 Petitioner herein vide his tweet dated 30.09.2019 made statement the following statement: -

“The deep political connections of the promoters of Indiabulls explains why the NHB, SFIO, RBI, SEBI etc. have not acted on the 1000s of Crores of public funds that have been laundered by its promoters through shell companies.”

The Petitioner herein wrote the said tweet by quoting a news article dated 30.09.2019 published on news website NewsClick, titled as *“The Maze of Political Links of Indiabull's Sameer Gehlaut”* which detailed the political patronage enjoyed by the family of the promoters cutting across political party lines, the complex web through which they own properties in London etc.

11.10.2019 The Court of Ld. Judicial Magistrate 1st Class, Rohtak, Haryana, in *Case Registration No. 142 of 2019*, summoned the Petitioner herein for commission of offence punishable under Section 500 of the Indian Penal Code, 1860.

29.11.2019 Vide order dated 29.11.2019, noticing that the Summon issued to the Petitioner herein had been received back with the report that the same was served through employee of the Petitioner herein who was present in the house of the Petitioner herein and that the Petitioner herein was not present on the said date of hearing, the Ld. Court issued bailable warrant upon the Petitioner herein in the sum of Rs. 5,000/- with one surety of the like amount for 28.01.2020.

22.01.2020 The Petitioner herein filed the instant Transfer Petition.

IN THE SUPREME COURT OF INDIA
(CRIMINAL ORIGINAL JURISDICTION)
TRANSFER PETITION (CRIMINAL) NO. OF 2020

(Under Section 406 of the Code of Criminal Procedure, 1973
R/w Order XXXIX of the Supreme Court Rules, 2013)

IN THE MATTER OF:

Prashant Bhushan

....Petitioner

V/s

Bhavya Narwal,
Director, M/s Indiabulls Venture
Capital Management Co. Ltd.

Also at:

....Respondent

**TRANSFER PETITION UNDER SECTION 406 OF THE CODE OF
CRIMINAL PROCEDURE, 1973 READ WITH ORDER XXXIX OF
THE SUPREME COURT RULES, 2013, SEEKING TRANSFER
OF CRIMINAL CASE OF DEFAMATION CASE REGISTRATION
NO. 142 OF 2019 (CRIMINAL COMPLAINT NO. 34 OF 2019)
TITLED *BHAVYA NARWAL, DIRECTOR, M/S INDIABULLS
VENTURE CAPITAL MANAGEMENT COMPANY LTD.* PENDING
BEFORE THE COURT OF JUDICIAL MAGISTRATE 1ST CLASS,
ROHTAK, HARYANA TO PATIALA HOUSE COURTS, DISTRICT
NEW DELHI, DELHI**

To,

**THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS COMPANION
JUDGES OF THE HON'BLE SUPREME COURT OF INDIA**

The Humble Petition of the
Petitioner above-named

MOST RESPECTFULLY SHOWETH: -

1. That the Petitioner herein is filing the instant transfer Petition under Section 406 of Code of Criminal Procedure, 1908 read with Order XXXIX of the Supreme Court Rules, 2013 seeking transfer of criminal case of defamation Case Registration No. 142 of 2019 (Criminal Complaint No. 34 of 2019) titled *Bhavya Narwal, Director, M/s Indiabulls Venture Capital Management Company Ltd.* pending before the Court of Judicial Magistrate 1st Class, Rohtak, Haryana to Patiala House Courts, District New Delhi, Delhi. The Respondent herein has filed the said criminal case of defamation against the Petitioner herein under Section 499, 500 and 501 of the Indian Penal Code, 1860 to obstruct course of justice.
2. That the Respondent herein in the said complaint has alleged that the Petitioner herein has made defamatory statements regarding the functioning of Indiabulls group, its promoters, officials and directors, etc vide social media sites namely, Twitter, Instagram and Facebook. It is alleged that the Petitioner herein has caused substantial damage to the goodwill and reputation of Indiabulls group as well of its Promoters, directors and officials including the Respondent herein etc.
3. The Petitioner submits that the said complaint has been filed in Rohtak, Haryana, to obstruct course of justice and as a means to harass the Petitioner and is an attempt to intimidate him since he is the signing authority and Secretary of Citizens Whistle Blowers Forum (CWBF) that has filed a PIL (WPC 9887/2019) before the Hon'ble High Court of Delhi seeking direction an in-depth, thorough and time bound investigation by the respondent authorities into the various illegalities and

violations of law committed by the promoters of India Bulls Housing Finance Ltd (IBHFL), its subsidiaries and their promoters.

4. The Petitioner herein is an advocate practicing at this Hon'ble Court since the past more than 35 years. He has various important Petitions pending in the Hon'ble Court on a daily basis and it is not possible for him to attend the hearings at Rohtak, Haryana. It is submitted that the company of the complainant namely, Indiabulls Ventures Capital Management Company Ltd. has its registered address at

. It is thus submitted that filing the instant case in Rohtak, Haryana is nothing but a means to harass and intimidate the Petitioner herein.

5. It respectfully submitted that the sole purpose of institution of the instant criminal defamation case is a desperate vindictive action of Indiabulls against the Petitioner herein in order to harass him. A copy of the details of Indiabulls Venture Capital Management Ltd. published with its registered address as available on www.zaubacorp.com, dated NIL, is annexed hereto and marked as **ANNEXURE P-1 (page _____ to _____)**.

BRIEF FACTS:

6. That the Respondent herein, in his complaint dated 26.09.2019, referred to the allegedly defamatory statements on Twitter on 14.09.2019. The contents of the allegedly defamatory tweet dated 14.09.2019 are: -

“Strange that Red Notices are issued against scamsters after they flee country. Mallya’s notice was downgraded to allow him to flee. None of them have been brought back. Similar story likely to unfold with promoters of Indiabulls who siphoned off 1000s Crs.”

7. That during the course of proceeding of the said defamation case before the Court of Ld. Judicial Magistrate 1st Class, Rohtak, the complainant therein also brought up another allegedly defamatory tweet, dated 30.09.2019, written by the Petitioner herein which is provided herein-below:

“The deep political connections of the promoters of Indiabulls explains why the NHB, SFIO, RBI, SEBI etc. have not acted on the 1000s of Crores of public funds that have been that have been laundered by its promoters through shell companies.”

8. That the Petitioner herein was not served the summons in the said mater personally. It was through the *eCourts.gov.in* website that the Petitioner has accessed the orders in the said case. That as per the order details available on the website, the Court of Ld. Judicial Magistrate 1st Class, Rohtak *vide* order dated 11.10.2019 summoned the Petitioner herein for the commission of offence punishable under Section 500 IPC. Thereafter, *vide* order dated 29.11.2019, noticing that the Summon issued to the Petitioner herein had been received back with the report that the same was served through employee of the Petitioner herein who was present in the house of the Petitioner herein and that the Petitioner herein was not present on the said date of hearing, the Court issued bailable warrant upon the Petitioner herein in the sum of Rs. 5,000/-with one surety of the like amount. A copy of the order dated 11.10.2019 passed by Ld. Judicial Magistrate 1st Class, Rohtak is annexed hereto and marked as **ANNEXURE P-2 (page _____ to _____)**. A copy of the order dated 29.11.2019 passed by Ld. Judicial Magistrate 1st Class, Rohtak is annexed hereto and marked as **ANNEXURE P-3 (page _____**

to _____). A copy of the bailable warrant, dated 12.12.2019, issued to the Petitioner herein is annexed hereto and marked as **ANNEXURE P-4** (page _____ to _____).

9. That the Petitioner herein was fully responsible and justified in making the said allegedly 'defamatory' statements against Indiabulls in the social media. The Petitioner herein in making the said statements has relied on documents, balance sheets and ROC records which are available in the public domain and are available for anyone to see, study and conduct an analysis. It is submitted that similar instances of malpractices, as those that have been committed by Indiabulls, have indicated a set pattern of conduct (*modus operandi*) deployed by corporate cronies before and after their illegalities come into public domain. It is pertinent to mention herein that the tweet, dated 14.09.2019, of the Petitioner herein- "*Strange that Red Notices are issued against scamsters after they flee country. Mallya's notice was downgraded to allow him to flee. None of them have been brought back. Similar story likely to unfold with promoters of Indiabulls who siphoned off 1000s Crs*"- quoted a news link of a story dated 14.09.2019 published by India Today titled as "*ED says Nirav Modi's brother Nehal Modi laundered over \$100 million for him, destroyed evidence*". The Petitioner herein expressed his legitimate apprehension that similar course is '*likely to unfold*' in the case of Indiabulls, a similar corporate giant, as the documents available in public domain show the huge illegalities being perpetrated by Indiabulls in its functioning. Therefore, the Petitioner herein was fully justified in making the statements against Indiabulls and its promoters that have been assailed as being defamatory to the complainant in the defamation case

pending before the Court of Ld. Judicial Magistrate 1st Class, Rohtak. Moreover, the Petitioner is the signing authority in the said case and not the advocate on record. He has a right to exercise his freedom of speech and expression.

10. That the Respondent herein is well aware of the comprehensive and evidence-based PIL filed on 06.09.2019 by the organisation-Citizens' Whistle Blowers Forum before Hon'ble HighCourt of Delhi and in fact has included the same in his complaint. Thus, the Respondent herein very well knows that the allegedly defamatory statements made by the Petitioner herein are not out of context and without substance but are linked to the case currently pending before the Hon'ble HighCourt of Delhi. It is pertinent to mention herein that the Hon'ble HighCourt of Delhi has also been pleased to issue notice to Indiabulls and relevant government authorities on the said PIL on 27.09.2019. It is submitted by the Petitioner herein that the filing of the aforesaid criminal case of defamation against the Petitioner herein before the Court of Ld. Judicial Magistrate 1st Class, Rohtak is nothing but a vindictive action and an intimidatory tactic adopted by Indiabulls against the Petitioner herein. A copy of the order dated 27.09.2019 passed by the Hon'ble HighCourt of Delhi in *WritPetition (Civil) No. 9887 of 2019* is annexed hereto and marked as **ANNEXURE P-5 (page _____ to _____)**.

11. That the Union Ministry of Corporate Affairs in its interim Affidavit filed before the Hon'ble HighCourt of Delhi, in the aforesaid PIL, has stated that the Ministry of Corporate Affairs has already ordered an

inspection under Section 206 (5) of the Companies Act, 2013 on 23.07.2018 into the activities of:

- Indiabulls Ventures Limited (IBVL)
- Indiabulls Housing Finance Limited (IHFL)
- Indiabulls Real Estate Limited (IBREL)

A copy of the interim Affidavit filed by Ministry of Corporate Affairs before the Hon'ble High Court of Delhi in *WP (C) No. 9887/2019* is annexed herewith as **ANNEXURE P-6 (page _____ to _____)**.

12. That, thereafter the Ministry of Corporate Affairs has filed an Additional Affidavit dated 28.11.2019 stating that the violations pointed out in the Inspection Reports are being examined and dealt with as per law. A copy of the Additional Affidavit dated 28.11.2019 filed by Ministry of Corporate Affairs before the Hon'ble High Court of Delhi in *WP (C) No. 9887/2019* is annexed herewith and marked as **ANNEXURE P-7 (page _____ to _____)**.

About Citizens' Whistle Blowers Forum & PIL (WPC 9887/2019) pending before the Hon'ble High Court of Delhi: -

13. That the Petitioner herein is a member-trustee and signing authority of Citizens' Whistle Blowers Forum, the organisation that has filed a Writ Petition [*Writ Petition (Civil) No. 9887 of 2019*] in public interest before the Hon'ble High Court of Delhi against Indiabulls Group and its promoters seeking CBI/SIT investigation into the illegalities that have been committed by it. The allegedly defamatory statements made by the Petitioner herein were in context of the improper and illegal conduct of the Indiabulls group of companies that is the subject matter of the said

WritPetition and are fully supported by large numbers of documentary evidences present in public domain. A copy of the PIL [*Writ Petition (Civil) No. 9887 of 2019*]filed by Citizens' Whistle Blowers Forum before the Hon'ble HighCourt of Delhi is annexed hereto and marked as **ANNEXURE P-8 (page _____ to _____)**.A copy of Short Note on behalf of Citizens' Whistle Blowers Forum filed before the Hon'ble HighCourt of Delhi in *WritPetition (Civil) No. 9887 of 2019* is annexed hereto and marked as **ANNEXURE P-9 (page _____ to _____)**.

14. That the organisation, Citizens' Whistle Blowers Forum, is a registered organisation working to provide a platform to whistleblowers across to country and to take up litigation on their behalf in order to provide them anonymity and to instill in them the necessary confidence to make disclosures without fear, arrange for their objective and impartial investigation and help to take such cases to their logical conclusions in a time bound manner. The forum consists of eminent members of civil society such as Justice (Retd.) A P Shah, former Chief Justice, HighCourt of Delhi and HighCourt of Chennai; Admiral (Retd.) L Ramdas, former Chief of Naval Staff; Ms. Aruna Roy, former IAS officer and founder of the National Campaign for People's Right to Information; Mr. Wajahat Habibullah, former Secretary, Government of India and First Chief Information Commissioner of the Central Information Commission; Mr. E A S Sarma, Former Secretary to the Government of India; Mr. Jagdeep S. Chhokar, founder of Association for Democratic Reforms; and Mr. Prashant Bhushan, Advocate (the Petitioner herein).

15. That upon receiving information about the illegalities in the affairs of IBHFL, Citizens' Whistle Blowers Forum cross verified all the documents and the allegations. Given the gravity and magnitude of illegalities, the statutory inaction of the regulatory bodies, and the considerable clout wielded by the concerned company and its promoter and to uphold rule of law and bring to book those who have diverted public monies to their private companies, the board of the organisation, in Public Interest, duly authorised the Petitioner herein to file the said WritPetition before the Hon'ble HighCourt of Delhi.

16. That in the said case also an attempt was made by the Petitioner company to intimidate the Petitioner and CWBF by filing an application for perjury (under Section 340 CrPC) against them and an application for direction seeking that the Petitioner herein be barred from filing PILs in the future. Clearly, this was done in a bid to intimidate the Petitioner organization and the Petitioner herein into not pursuing the PIL. However, the Petitioner herein filed a detailed response in reply to the Application for Perjury and Application for Directions filed by Indiabulls and its promoter responding to each allegation. A copy of the commonreply filed by Citizens' Whistle Blowers Forum before the Hon'ble HighCourt of Delhi to the *CM APPL. No. 44283 / 2019* [perjury application] and *CM APPL No. 44284 / 2019* [application for directions] is annexed hereto and marked as **ANNEXURE P-10 (page to _____).**

17. That whereas in its PIL before the Hon'ble HighCourt of Delhi, the Petitioner's organization- Citizens' Whistle Blowers Forum- has shown more than 130 transactions that require investigation from authorities

concerned, Indiabulls, vide its reply therein, in substance stated that averments regarding 3 transactions are “patently false” (Para 4A of the perjury application filed by Indiabulls) and averments regarding 3 transactions are “false statements” (Para 5 of the perjury application filed by Indiabulls). It is submitted that the company has not been able to prove that the rest of the transactions (about 122 transactions) and averments are false or incorrect.

About the Petitioner herein: -

18. That the Petitioner herein is a respectable and public-spirited citizen and has filed hundreds of PILs before this Hon’ble Court and High Courts and argued them pro bono which have resulted in landmark judgments and directions to authorities. The said PILs have been filed on varied issues affecting the public such as large scale corruption, RTI, illegal mining, environment protection, police reforms, misuse of public funds, rehabilitation of slum dwellers and rights of street vendors, FCRA violations, illegal appointments of High public functionaries, judicial service examinations, land acquisition matters, drought relief etc. It is pertinent to mention herein that some of these matters are currently also being monitored by this Hon’ble Court. A table with details of the major PILs argued by the Petitioner herein where substantive orders / directions were passed by this Hon’ble Court is annexed herewith as **ANNEXURE P-11 (page to)**.

Indiabulls muzzling voices raised against its malpractices: -

19. That as per the information available with the Petitioner, a detailed complaint, dated 06.05.2019, under the Whistle Blowers’ Protection Act, 2014 was filed by one Mr. Vikas Shekhar against M/s Indiabulls Housing

Finance (IBHFL), its chairman Mr. Sameer Gehlaut, its promoters, directors and other persons for the offences of misappropriation of money, causing loss to public exchequer, fraud, forgery, criminal misinterpretation etc. The said complaint dated 06.05.2019 was addressed *inter alia* to the Ministry of Finance, Ministry of Corporate Affairs, Registrar of Companies, National Housing Bank, Reserve Bank, SFIO, SEBI and the Income Tax Department.

20. That the complainant in the said complaint dated 06.05.2019 prayed the authorities for proper investigation in the matter and confirmed that he was in possession of the documents which will help the authorities to conclude the investigation and if required he would remain present to assist the Investigating officer when required. He further requested the authorities to keep his identity secret and confidential under all circumstances as per the provisions of Whistle Blowers' Protection Act, 2014. It is pertinent to mention herein that the said complainant, Mr. Vikas Shekhar, was also a complainant against the illegalities taking place in Dewan Housing Finance Corporation (DHFL) and his complaints were proved to be correct, given the subsequent liquidity crisis in DHFL and defaults in payments and interest by DHFL, necessitating government intervention.

21. That instead of taking any action on the complaint filed by Mr. Vikas Shekhar, the respondent authorities allowed the fraud and illegalities of IBHFL and its promoters to continue and flourish. In fact, IBHFL/ Indiabulls responded by filing an FIR against the complainant alleging extortion and forgery. It is submitted by the Petitioner herein that the complaint dated 06.05.2019 made by Mr. Shekhar is one month prior

to the lodging of the FIR which shows that the filing of this FIR was a *mala fide* action by Indiabulls in order to harass Mr. Shekhar so as to make him withdraw his complaint and to threaten any other person from coming forward or filing a complaint against Indiabulls Group. Anybody who seeks to blackmail/extort money would not be filing complaints with the authorities. Thus, it would be prima facie absurd to allege that Mr. Vikas Shekhar wanted to extort money out of Indiabulls after having already made a formal complaint to the authorities. A copy of the FIR dated 04.06.2019 filed against Mr. Vikas Shekhar by the authorized representative of Indiabulls is annexed herewith as **ANNEXURE P-12** (**page _____ to _____**). That the instant case is similar in that it is also an attempt to harass, intimidate and threaten the Petitioner herein.

22. That on the basis of the said FIR, Mr. Shekhar was arrested from his residence and was beaten black and blue by the police and certain Indiabulls employees who were also present at the Udyog Nagar/ Gurgaon police station.

23. That the Respondent company habitually indulges in intimidatory legal tactics to overawe and silence those who Highlight the illegalities and irregularities in the conduct of its business so as to dissuade scrutiny. When in 2012, *Veritas*, a Canadian investment advisory firm published a research report titled '*Bilking India*' stating that the numerical data supplied by the company could not be relied upon; detailing in depth the siphoning of public funds into private companies of the promoters; revealing that the financial reports were prepared by the applicant company by not consolidating many subsidiaries in its publicly-filed

financial statements; and that management had cherry picked profits and excluded egregious losses from its publicly-filed consolidated financials, the respondent company on the very same day issued a press release alleging that the report was motivated and filed an FIR in Mumbai and Gurgaon alleging that the advisory firm had tried to blackmail the company prior to release of the report subsequent to which one of the researchers for *Veritas* in India was arrested.

24. In 2014, *Veritas* sued the respondent company for damages in Canada against which Indiabulls moved the Delhi HighCourt seeking an anti-suit injunction. The judgment in that case, *India Bulls RealEstate Ltd. v. Veritas Investment Research Corporation &Ors (2019 SCCOnlineDel 8294)*, delivered on 29.04.2019 records the submission of *Veritas* as follows:

22. On behalf of Veritas, various objections have been raised. First, that the requisite pre-conditions for grant of anti-suit injunction are not made out in the present suits. It is further claimed that after the grant of the ex-parte injunctions in the present suits, Indiabulls has filed a 'Van Breda motion' seeking dismissal of the Canadian Suit before the Canadian Court and hence, no cause of action survives in the present suits. It is further claimed that the so-called emails, which form the basis for the allegation of monetary demands by Veritas, are completely concocted and fabricated, and hence the emails, though relied upon in the plaint, were not filed on record. Veritas, further claimed that Indiabulls indulged in enormous harassment of Veritas and its employees by lodging criminal complaints, both in Mumbai and Gurgaon. Mr. Nitin Mangal-Defendant No. 3 was granted anticipatory bail by the Bombay HighCourt, but this fact was not disclosed in CS(OS) 2919/2014. It is claimed that the emails

exchanged were doctored. Mr. Nitin Mangal was taken into custody on 25th November, 2014, and had to remain in jail for 12 days before he was granted bail by the Ld. Sessions Court in Gurgaon. Since Indiabulls has already voluntarily joined the proceedings in the Canadian suit, the present suits are liable to be dismissed.

The Court thereafter found as under:

76. Anti-suit injunctions are nothing but a species of injunctions, which are discretionary remedies. The conduct of parties has an enormous bearing, while the Court considers the prayer for any injunction. In the present case, Veritas is a company which is engaged in the publishing of research reports and Defendant Nos. 2 & 3 were co-authors of this Report. The Report - Bilking India was obviously not palatable to Indiabulls. However, the conduct of Indiabulls, in causing harassment to the authors of the report by filing criminal complaints against them, by getting one of them arrested, issuing a press release making allegations against Veritas etc. was clearly not called for. While the remedies of Indiabulls against any report, which according to it may have contained incorrect or misleading facts, were always available to them, to threaten criminal action for publication of a research report was an extreme step. Defendant No. 2, Mr. Nitin Mangal, a professional was forced to approach Courts repeatedly for anticipatory bail/bail in Gurgaon and Mumbai, and was also put to personal hardship. Such a reaction in the face of publications and articles written by researchers could have a 'chilling effect' on publishing. Moreover, such litigation could also result in genuine researchers being dissuaded from writing articles which would not be in the interest of the investing public.

25. The above shows that Indiabulls regularly uses its clout to gag any media person, whistleblower or lawyer that attempts to raise their voice

against the company and its illegalities. In their submissions before the Hon'ble HighCourt, IBHFL/Indiabulls has submitted that as many as six Petitions/PILs have been filed against IBHFL and that all of them have been withdrawn. The Petitioner herein respectfully submits that this fact alone shows the level of intimidation or influence or inducement that is possibly exerted by IBHFL to ensure that the allegations against them and the inaction of the authorities is not scrutinized by any constitutional Court in the country.

Suit for Injunction against Dr. Subramanian Swamy and others filed by Indiabulls in Delhi HighCourt and its subsequent withdrawal

26. That in 2019 itself, Indiabulls had, in Delhi, filed C.S. (OS) 475/2019 against Dr. Swamy and some social media platforms before the Hon'ble HighCourt of Delhi alleging that certain tweets posted by Dr. Swamy on twitter were "defamatory". Indiabulls in the said suit had ascribed motivation to Dr. Swamy and such portals as well, and succeeded in getting issued an *ex-parte adinterim* injunction directing Dr. Swamy and the social media platforms to take down allegedly false and defamatory content. However, before the respondents therein could file their replies on merits, on 11.10.2019, the company withdrew the suit for reasons best known to it. It may appear that the company does not wish to contest the merits of the allegation. One of the Respondents in that matter has publicly lamented the conduct of the Indiabulls and the legal tactics deployed by it.

27. It is pertinent to mention herein that Indiabulls chose to file the suit against Mr. Swamy and other social media giants in Delhi but the instant motivated criminal defamation case has been filed by Indiabulls against the Petitioner herein in Rohtak, in Haryana, with the sole purpose to harass the Petitioner herein who will find it difficult to attend the Court proceedings in Rohtak owing to his Court cases in Delhi. A copy of the order dated 13.09.2019 passed by the Hon'ble HighCourt of Delhi in CS (OS) 475/2019 is annexed hereto and marked as **ANNEXURE P-13** (page _____ to _____). A copy of the order of withdrawal dated 11.10.2019 passed by the Hon'ble HighCourt of Delhi in CS (OS) 475/2019 is annexed hereto and marked as **ANNEXURE P-14** (page _____ to _____). A copy of the news report dated 12.10.2019, published on P Gurus, titled as "*Indiabulls withdraws frivolous Petition against Swamy & PGurus. Murky tricks to sabotage freedom of speech collapses*" is annexed hereto and marked as **ANNEXURE P-15** (page _____ to _____).

28. That the past conduct of the Indiabulls makes it manifestly clear that whenever the illegalities being perpetrated by the Indiabulls are brought out in public domain, it habitually deploys aggressive legal tactics and claims that the research reports /complaints /Petitions are motivated so as to dissuade proper scrutiny.

Stature and reputation of Indiabulls

29. That as per the media report dated 10.09.2019 published by Business Today, credit rating agency CRISIL downgraded the long-term

debt instruments rating of Indiabulls Housing Finance Ltd to 'CRISIL AA+' from 'CRISIL AAA' and reaffirmed commercial paper (CP) issue and short-term non-convertible debenture rating at 'CRISIL A1+'. A copy of the news report, dated 10.09.2019 published by Business Today, titled as "*CRISIL downgrades long-term rating of Indiabulls Housing Finance*" is annexed hereto and marked as **ANNEXURE P-16 (page _____ to _____)**.

30. That the Reserve Bank of India (RBI), had rejected the merger of India Bulls Housing Finance with Laxmi Vilas Bank. It has been reported that:

"The Reserve Bank of India (RBI) on Wednesday rejected the proposed amalgamation of Indiabulls Housing Finance and Lakshmi Vilas Bank (LVB), two weeks after the banking regulator initiated prompt corrective action (PCA) against the Chennai-based bank.

The RBI said the application for the voluntary amalgamation of Indiabulls Housing Finance (IBHFL) and its subsidiary Indiabulls Commercial Credit with LVB could not be approved.

LVB officials declined to comment on the matter.

IBHFL in its statement to the stock exchanges said, "Now that the merger will not happen with Lakshmi Vilas Bank, the uncertainty of the last five months on the business is lifted and the company will focus on its growth of the core business of housing finance."

A copy of news report dated 09.10.2019 published in the Business Standard, titled as "*RBI rejects merger of Indiabulls Housing Finance with Lakshmi Vilas Bank*" is attached herewith and marked as **ANNEXURE P-17 (page _____ to _____)**.

31. That on 15.10.2019, Business Standard reported that Moody's Investor Services has downgraded the corporate family rating (CFR) and the foreign- currency senior secured rating of IBHFL to B2 from Ba2, citing funding challenges for the company. Reportedly, "*Governance considerations were also a key driver of this rating action*". A copy of the new report, dated 15.10.2019, titled as "*Moody's downgrades Indiabulls to B2 on fund raising challenge, governance*" is annexed hereto and marked as **ANNEXURE P-18 (page _____ to _____)**. A copy of the news report dated 15.10.2019, titled as "*Indiabulls Housing Finance falls 13% in two days on Moody's downgrade*" published by Business Today is annexed hereto and marked as **ANNEXURE P-19 (page _____ to _____)**.

32. That the Petitioner herein vide his tweet dated 30.09.2019 had made the following statement: "*The deep political connections of the promoters of Indiabulls explains why the NHB, SFIO, RBI, SEBI etc. have not acted on the 1000s of Crores of public funds that have been laundered by its promoters through shell companies.*"It is submitted that the Petitioner herein made the said tweet by quoting a news article dated 30.09.2019 published on news website NewsClick, titled as "*The Maze of Political Links of Indiabull's Sameer Gehlaut*" which detailed the political patronage enjoyed by the family of the promoters cutting across political party lines, the complex web through which they own properties in London etc. Thus, it is manifest that the Petitioner herein didn't make the said comment without any basis. In any case Section 499 IPC be read to provide that imputation and criticism or fair comment even if not true

but made in good faith and in the public interest would not invite criminal prosecution. A copy of the news article dated 30.09.2019 published on news website NewsClick, titled as "*The Maze of Political Links of Indiabull's Sameer Gehlaut*" is annexed hereto and marked as **ANNEXURE P-20 (page _____ to _____)**.

33. That regarding the conduct and reputation of Indiabulls, it is pertinent to mention herein that this Hon'ble Court vide its judgment dated 15.11.2019, in *Contempt Petition (Civil) No. 2120 of 2018 in SLP (C) No. 20417 of 2017* held 6 Indiabulls directors guilty of contempt of Court. This Hon'ble Court held *inter alia* as follows:

"There can be no manner of doubt that IHFL and IVL have violated these orders and, therefore, we find contemnor nos.1-8 who are active directors of IHFL and IVL guilty of knowingly and willfully disobeying the orders of this Court and find them guilty of committing Contempt of Court."

This story has been carried by various electronic portals and print media. A copy of new report dated 17.11.2019 published in Business Today titled as- "*SC holds 6 Indiabulls directors guilty of contempt for transferring shares of Fortis Healthcare*" is annexed hereto and marked as **ANNEXURE P-21 (page _____ to _____)**.

GROUND

A. Because the instant criminal defamation case has been filed against the Petitioner herein in Rohtak, Haryana with the sole and malafide intent to harass the Petitioner herein. The Petitioner herein is an advocate who practices in Delhi, mostly before this

Hon'ble Court and has number of his cases (mostly PILs) listed before this Hon'ble Court on a daily basis. Because of this, the Petitioner herein will face an obvious and undue difficulty in attending hearings in Haryana, before the Court of Ld. Judicial Magistrate 1st Class, Rohtak.

- B.** Because the complainant, Mr. Bhavya Narwal, is one of the three Directors of M/s Indiabulls Venture Capital Management Co. Ltd. The said company has its registered office in Delhi at . Therefore, no inconvenience will be caused to the complainant if the aforesaid defamation case is transferred to any District Court in Delhi.
- C.** Because the fact that the complainant in the defamation case is not some random individual but is one of the three directors of M/s Indiabulls Venture Capital Management Co. Ltd. (which is a subsidiary of M/s Indiabulls Housing Finance Ltd.) makes it clear that the sole purpose of instituting the defamation case in Haryana is only to harass the Petitioner herein in a vindictory manner as the company M/s Indiabulls Venture Capital Management Co. Ltd. is having its registered office in Delhi itself.
- D.** Because it is a known fact that the relaxation provided for the purpose of determining the territorial jurisdiction in cases of criminal defamation is regularly used by unscrupulous individuals to muzzle the voices raised against the misdeeds of the said individuals in order to frustrate the quest for truth and justice by filing of frivolous criminal defamation cases in far-flung areas.

However, it is submitted that this Hon'ble Court has sufficient jurisdiction under Section 406 of the Code of Criminal Procedure, 1973 to transfer a case from a Criminal Court subordinate to one HighCourt to another Criminal Court subordinate to another HighCourt if this Hon'ble Court is satisfied that such a transfer is expedient for meeting the ends of justice. It is submitted that the instant criminal defamation case filed against the Petitioner herein is a fit case to be transferred from Rohtak, Haryana to any District Court subordinate to the Hon'ble HighCourt of Delhi. Section 406 (1) of the Code of Criminal Procedure, 1973 is provided herein-below:

*“406. Power of Supreme Court to transfer cases and appeals:
(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one HighCourt to another HighCourt or from a Criminal Court subordinate to one HighCourt to another Criminal Court of equal or superior jurisdiction subordinate to another HighCourt.”*

- E.** Because the Petitioner herein is a member-trustee and signing authority of Citizens' Whistle Blowers Forum, the organisation that has filed a WritPetition [*WritPetition (Civil) No. 9887 of 2019*] in public interest before the Hon'ble HighCourt of Delhi against Indiabulls Group and its promoters seeking CBI/SIT investigation into the illegalities that have been committed by it. The allegedly defamatory statements made by the Petitioner herein were in context of the improper and illegal conduct of the Indiabulls group of companies that is the subject matter of the said WritPetition and

are fully supported by large numbers of documentary evidences present in public domain. Moreover the said statement of the Petitioner in any case comes under third Exception to the Section 499 IPC which states about conduct of any person touching any public question and stipulates that it is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character, so far as his character appears in that conduct. The said Exception uses the words "good faith" and particularizes conduct of any person relating to any public question and the Exception, as is perceptible, gives stress on good faith. However the Ld. Magistrate while exercising discretion has failed to take all the relevant facts and circumstances into consideration before issuing process resulted into being an instrument in the hands of the private complaint as vendetta to harass the Petitioner needlessly.

- F.** Because the Respondent herein is well aware of the comprehensive and evidence-based PIL filed on 06.09.2019 by the organisation- Citizens' Whistle Blowers Forum before Hon'ble High Court of Delhi and in fact has included the same in his complaint. Thus, the Respondent herein very well knows that the allegedly defamatory statements made by the Petitioner herein are not out of context and without substance but are linked to the case currently pending before the Hon'ble High Court of Delhi as well as the numerous media reports highlighting the malafides of Indiabulls.

- G.** Because the past conduct of the Indiabulls, as detailed in the facts hereinabove, makes it manifestly clear that whenever the illegalities being perpetrated by the Indiabulls are brought out in public domain, it habitually deploys aggressive legal tactics and claims that the research reports /complaints /Petitions are motivated so as to dissuade proper scrutiny.

PRAYER

In view of the facts & circumstances stated above, it is most respectfully prayed that this Hon'ble Court may be pleased to: -

- a.** Transfer the criminal case of defamation Case Registration No. 142 of 2019 (Criminal Complaint No. 34 of 2019) titled *Bhavya Narwal, Director, M/s Indiabulls Venture Capital Management Company Ltd.* pending before the Court of Judicial Magistrate 1st Class, Rohtak, Haryana to Patiala House Courts, District New Delhi, Delhi.
- b.** Issue or pass any direction or order that this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

PETITIONER THROUGH

MS. KAMINI JAISWAL
COUNSEL FOR THE PETITIONER

DRAWN & FILED ON: 23.01.2020
NEW DELHI