



## THE MISOGYNISTIC TROPES OF RAPE DELINEATING THE BOUNDARY OF ROMANCE IN POPULAR FICTION

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### Abstract

It is astonishing to see a civilized nation being defined by culture such as rape. Rape culture is evident in society and it is being achieved through the condoning and normalization of physical, mental and sexual torture that women are subjected to. Norms are created in society through attitudes, beliefs, customs and rituals. Rape has been embedded in our culture and hence it is seen as normal. Due to the normalization of such assault's society perceives rape as something inevitable. Rape has been accepted as a part of society. But how has this normalization occurred? The media is an influential medium through which the people form their opinions. Whether it be newspapers, novels or television channels, all of these mediums propagate one point of view. Sadly, all the mediums have a massive amount of material that trivializes and eroticizes rape. It is due to the collective tone set by the media that a synthesis between rape and culture has led to the rape culture becoming a part of our society.

### I. INTRODUCTION: THE STORY OF ROMANCE REPLACING THE STORY OF RAPE

The readership of the romance genre in the fictional narrative is immense. These novels have been targeted primarily at women of all age groups. In her book, *Reading the Romance: Women, Patriarchy, and Popular Literature*, Janice Radway shows that the majority of readers for the romance genres consists of women.<sup>1</sup> The target audience internalises the notions of an ideal romance and emulates those in their real lives. Complications arise in this genre when romantic norms, as perpetuated by the genre, are replicated in cases of sexual assault and violence. Within the romantic framework, it has been seen that a woman 'no' has been interpreted to actually mean a 'yes'. The myths are premised on cultural norms that foster patriarchy in society. When such romantic notions are validated in the legal discourse, the consequences are that the patriarchal norms become the reality. Due to this internalization by the legal fraternity, it has been palatable by society.

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<sup>1</sup>Janice Radway, *Reading the Romance: Women, Patriarchy, and Popular Literature* (The University of North Carolina Press, North Carolina, 1991).

Authors are no exception to this internalisation. Knowingly or unknowingly, they have furthered the internalisation of such norms in their novels. This has led to the conclusion that the authors' thoughts have been reinforced by patriarchy.

## II. THE MISOGYNISTIC TROPES IN POPULAR FICTION

In popular fiction, the general stereotype underpinned in it is the female protagonist falling for the desired man even though he is contemptuous and hostile towards her. He makes fun of her, passes remarks and objectifies her. The female protagonist gets offended by at first but she starts to understand the troubles that he himself has been fighting since the past. She realizes that his inability to express his love for her is manifest in the frustration which he initially had against her. She readily forgives him and, in the end, they live happily ever after.<sup>2</sup>

The image of an 'ideal woman' has been embedded into the beliefs of the women furthering the notion that 'when a boy is being mean, he actually has a crush on you.' Radway states that the ideal heroine of a romance novel must also be innocent and naive to the ways of sexuality and remain aloof and detached in terms of attracting sexual attention while also being sexually attractive. While the female must be virginal and naive, the male is expected to have multiple sexual encounters to make his transition toward desiring the heroine more powerful. This has led to the desensitization of women when they face verbal mockery or sexual violence as they perceive these acts as 'natural male tendencies which occur during the course of romance.'<sup>3</sup>

"For an instant, she thought he was going to hit her and then, fearfully, realized he was going to do something very different".<sup>4</sup> This scene clearly shows how the female protagonist mistook a kiss for an act of sexual violence. Such a characterization of violence as love legitimises the assault on women and maintains the notion of physical and sexual violence on women as a sign of love.

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<sup>2</sup>Abrams, D., "Harlequin Romance Tries to Adjust to Changing Times", *available at* <https://publishingperspectives.com/2014/05/harlequin-romance-tries-to-adjust-to-changing-times/> (last visited on December 1, 2021).

<sup>3</sup>Pineau, L., "Date Rape: A Feminist Analysis", 8(2) *Law and Philosophy* 217-243 (198).

<sup>4</sup>Weston, S. (1976). *Goblin Court Harlequin Romance* (Harlequin Mills and Boons, 2005).

According to Jean-Jacques Rousseau, women are destined to resist.<sup>5</sup> Women are bound by societal expectations and hence they need to suppress their inner sexual desires. They have to rely on men and their interpretations of what they want. Chasteness is considered to be a significant female virtue which she cannot jeopardize to fulfil her sexual desires. A man on the other hand can freely express himself without any fear of ostracization. To further this Rousseau also suggests that:<sup>6</sup>

To win this silent consent is to make use of all the violence permitted in love. To read it in the eyes, to see it in the ways in spite of the mouth's denial, that is the art of he who knows how to love. If he then completes his happiness, he is not brutal, he is decent. He does not insult chasteness; he respects it; he serves it. He leaves it the honour of still defending what it would have perhaps abandoned.

A problem with this myth of women is that they are being deprived of their autonomy. In the discourse of romance, her consent is subject to the interpretation made by the man. Her consent is contingent upon him correctly interpreting it. Further, if women are supposed to be chaste and are not to indulge in any sexual behaviour then, by implication, women who are open about their sexuality will suffer dire consequences for defying their role in society. This would sustain the prevalent rape defence of 'she was asking for it,' further perpetuation the rape culture in society.

### **Sexual Consent as Depicted by Popular Fiction**

In a novel called *Stranger in the Night*, written by Charlotte Lamb,<sup>7</sup> the heroine Claire gets drunk in a party. In her drunken state, she is taken away from the party by a man. Under the belief that she is in love with the man, she agrees to leave the party with him. Upon getting sober she realizes that she was being sexually assaulted. She tries to verbally and physically protest against the sexual act; however, the man disregards all such protests and continues with the assault. It is during the course of the novel that Claire justifies the man's assault by saying:<sup>8</sup>

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<sup>5</sup>C. Pateman, "Women and Consent", 8(2) *Political Theory* 149–168 (1980).

<sup>6</sup>J. Rousseau, & A. Bloom, *Politics and the Arts: Letter to M. D'Alembert on the Theatre* (Cornell University Press, Ithaca, 1968).

<sup>7</sup>C. Lamb, *Stranger in the Night* (Harlequin Mills & Boon, 1981).

<sup>8</sup>*Id.*, 112-113.

And to do him justice, I suppose he thought I was willing, too. He thought I knew what he wanted. How was he to guess I was as thick as a plank?

In another novel called *The Fountainhead*, written by Ayn Rand, the protagonist Howard Roark violently rapes a woman named Dominique. He forces her into submission.

She tried to tear herself away from him. The effort broke against his arms that had not felt it. Her fists beat against his shoulders, against his face...., her eyes wide, colourless, shapeless in terror. He was laughing.

Dominique tries to get away by flailing and biting and she does draw blood from Howard however he had his way with her. However, in the end, Dominique realizes that this is ‘the kind of rapture she had wanted’ all along. Rand has described Howard Roark as ‘the noble soul par excellence.... And who triumphs completely. A man who is what he should be.’ However, he also says that the relationship between Dominique and Roark, ‘Were it necessary, he could rape her and feel perfectly justified.’ It is needless to say that Dominique, the woman who was raped by Roark, ‘worships him and loves him much more than he loves her.’<sup>9</sup>

The justification given by Claire in *Stranger in the Night* legitimises the assault on her. She concedes to it and believes that she had deserved it. The same is seen in *The Fountainhead* as Dominique concedes to it and legitimises the sexual assault. In both instances, we see that both blame themselves and disregard the verbal as well as physical protests that they had put up.

In the *Stranger in the Night* after Claire accepts that what happened to her was because she deserved it, she talks about this with the protagonist. However, instead of comforting her, he abuses her. He calls her names such as ‘stupid bitch’<sup>10</sup> or ‘tease’<sup>11</sup> and blames her for his frustration. In a fit of rage, he threatens her and tells her that he might do something that both of them will regret. Instead of calling him out on his abuse Claire confesses her love for him.

In the novel *Stranger in the Night*, we see that the author fails to acknowledge the non-consensual assault which Claire suffered from by both the stranger and the protagonist. The first sexual assault by the stranger was justified by Claire as she thought that she had brought

<sup>9</sup>A. Rand & L. Peikoff, L., D.Harriman (ed.), *The Journals of Ayn Rand* (NAL, New York, 1999).

<sup>10</sup>*Supra* note 8 at 112-113.

<sup>11</sup>*Ibid.*

it upon herself. The second sexual assault by the protagonist was justified as it occurred out of love and jealousy.

### **Delineating the Boundary of What Constitutes Sexual Assault**

In a novel, *The Boss's Virgin*,<sup>12</sup> the heroine, Pippa, is engaged to the protagonist Tom. She had fallen in love with another person named Randal Harding four years ago which did not work out as he was already married. In a sudden chance encounter, both meet again. Upon seeing Harding, Pippa faints. Harding lifts her unconscious body and takes her to his hotel. Despite her constant protests like 'Let me go'<sup>13</sup> and 'Don't touch me.'<sup>14</sup> Harding ignores them and tries to engage in a sexual encounter. However, Tom appears at the right time and stops Harding from going any further. When Tom asked Pippa about whether Harding tried to rape her, she refuses and defends him. She says 'No, he didn't use force; he's devious and scheming, but never violent.'<sup>15</sup> She further justifies his actions, thinking:

Randal had no need to use force. He had used her own feelings and desires against her and had a walk-over because she was too weak to defend herself. Whatever she might say to him, however fiercely she rejected him, Randal had some way of seeing past all that and realising his power over her.

This justification given by Pippa validates the actions taken by Harding as he had correctly interpreted what Pippa wanted. He saw through the façade put up by Pippa and had correctly interpreted her 'true desires. The novel legitimizes the attempted rape by interpreting it as romantic seduction and further justified it by showing that the woman had 'consented' to it, though she did not want to admit it.

In a subsequent encounter where both of them do have sexual intercourse, Pippa yet again refuses and says, 'No, don't! Stop that!'<sup>16</sup> To which Harding replies 'And you need it, too, whether you'll admit it or not.'<sup>17</sup> During the entire time they were having intercourse, Pippa continued to struggle and refuse. Even though she was 'trembling violently [and] her mouth

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<sup>12</sup>C. Lamb, *The Boss's Virgin* (Harlequin Mills & Boon, 2001).

<sup>13</sup>*Id.*, 28.

<sup>14</sup>*Ibid.*

<sup>15</sup>*Id.*, 79.

<sup>16</sup>*Supra* note 12 at 142–143.

<sup>17</sup>*Ibid.*

hot from the mere touch of his tongue'<sup>18</sup> and 'her treacherous mouth had parted to admit him, her body clung hotly to his.'<sup>19</sup>

Now such a depiction of 'romance' has delineated the boundary of what constitutes sexual assault. In the scenario given above Harding correctly interprets the refusal of Pippa as concealing her desires. He relied on his interpretation of what he thought she wanted while neglecting the verbal and physical protests made by Pippa. This situation is further exacerbated by the fact that Pippa actually wanted him to advance and she was putting up a resistant façade in front of him. Such narratives have led to the perpetuation of the flawed rape myth that a woman's 'no' actually means 'yes'.

The media has played a huge role in propagating such an idea. Novels such as John Cusack's *Say Anything*, Nicholas Sparks' *The Notebook* and the famous series *50 Shades of Grey* have shown a culture where a man or men compete in order to win the woman's affection. While in these novels the woman refuses at first, she waits for outrageous gestures before saying 'Yes'. Even if the woman wants to say 'Yes' she is repeatedly told to say 'No'. It is due to such complications that have contributed to the rape culture and replacing the story of romance with the story of rape.

In a world where 'No' no longer means 'No', there needs to be a discourse in which the present generation realises that consent cannot be implied based on perceived actions. The term 'no' meaning nothing more than 'no'.

### III. THE ALTERNATIVE STORY OF RAPE: THE STORY OF ROMANCE

Fictional narratives as the ones given above have led to the perpetuation and normalization of assaults that are directed against women. Such narratives have created a supplement to the legal narrative by creating an alternative to the story of rape: the story of romance.<sup>20</sup> When rape is consistently depicted as romance or love in popular fiction then the entire formal legal narrative of rape is delegitimised as its very existence is negated and actively suppressed.<sup>21</sup> The narration is essential to establish the existence of rape.

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<sup>18</sup>*Ibid.*

<sup>19</sup>*Ibid.*

<sup>20</sup>N. Philadelphoff-Puren, "Contextualising consent: the problem of rape and romance", 20(46) *Australian Feminist Studies* 31–42 (2005).

<sup>21</sup>L. A. Higgins, "Screen/Memory: Rape and Its Alibis in Last Year at Marienbad", in D. Russell (*e.d.*), *Rape in Art Cinema* 15–26 (Bloomsbury Academic, 2010).

When someone commits murder there can be defences such as acted under self-defence or mistaken belief. However, when the crime of rape is committed the entire case falls if it is proven to be consensual. The presence or absence of consent of both parties can effectively deny the commission of rape. Hence, if the perpetrator takes the defence of seduction or romance then the dimensions of the case completely change from who committed the crime to whether a crime was even committed.

Thus, if the story of rape is narrated as the story of romance then the entire formal legal crime of rape is invisibility. Such an invisibilization negatives the traumatic experience of the victim and reduces such an experience to a socially palatable reality which is condoned even by the legal system! Further, this also incentivises the perpetrators to continue doing such heinous crimes and tag it as an act done during the course of romance.

#### **IV. PROBLEMATIC PORTRAYAL OF RAPE IN CINEMA OR MOVIES**

Media outlets, *i.e.*, movies and cinema contain multiple layers of portrayals that conceal the truth about consent and what society thinks about assent. Our society is rooted in patriarchal norms. Most of the content we see on the big screen today reflects the harsh and cruel mentality set by this patriarchy. Nowadays, young men consider stalking, harassment, eve-teasing of females and other behaviours as normal and acceptable behaviours. When they see their favourite entertainers engage in similar activities and get praise from the actress, it is viewed as the successful solution for attracting women's attention and hence they apply it in real life too.

One of the most serious crimes against women of rape is also the most clearly depicted crime in Indian cinemas. Since ancient times, rape has been regarded as a power tool. For decades, the idea of establishing predominance through rape has been reflected in our cinemas. Even when the plot of the movie is not needed, the frequency of depicting rape and even assault is high.

What people cannot understand is the difference between fiction and reality. Everybody discusses how profound this rape culture is established in our society. Although we can say that the film industry may not be the biggest cause of the rape culture, it does play an important role in affecting young people. The impact of audio-visual movies is much higher in people's thoughts, especially in impressionable minds. It tends to normalise the occurrence of such instances. In cinema, the existence and spread of rape culture are huge, and we cannot

expect it to disappear with the wave of magic wands. However, the potential for reducing it is huge, thereby enabling society to develop towards a better future. To this end, the joint efforts of the audience, filmmakers and the media are needed.

## V. THE NORMALIZATION OF RAPE MYTHS IN THE LEGAL DISCOURSE

### Relationship between rape, romance fiction and the law

In the article “Contextualising consent: the problem of rape and romance”, Puren Philadelphoff<sup>22</sup> states that conviction for sexual assault in Victoria had dropped because those juries are reluctant to convict in acquaintance rape cases where women know their attacker, due to this proving the crime becomes difficult because of the complexity of the issue of sexual consent in such situations. The complexity of consent is a matter of discussion explicitly the confluence between rape and romance. This convergence requires us to study the operation of consent not only in the context of law but also through seemingly non-legal literary genres. Such an inquiry can reveal how literature can function as a form of legal reasoning in the context of rape, which is eligible to disqualify a woman from testifying. Therefore, many writers criticize and condemn rape laws as they are placed under the framework focusing on the issue of credibility. They believe that credibility is not the jury's decision about the relative credibility of the various witnesses than as a matter of the victim's credibility in the eyes of the law. Therefore, the paradox governing rape law includes the obvious contradiction between the almost never-failed historical description of rape as one of the most serious crimes and the relatively low conviction rate for felony rape. Therefore, rape seems to be a serious but rare crime.

In the field of rape law, the most important ‘context of consent’ to consider is romantic discourse. Feminist scholars point out that romanticism and the specific pattern of rape legal narrative are consistent.

Thusly, romantic non-legal texts can provide literary and emotional justification as legal defences, including some enduring beliefs that women say ‘no’ when they say ‘yes’, this story continues to work. In rape trials, although there are legislative reforms aimed at eliminating this situation. In addition, the supplementary relationship obtained between

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<sup>22</sup>*Supra* note 20.



romance and rape means that ‘consent’ can be deployed in both the free form of law and the romantic literary form.

In his influential essay ‘Date Rape: Feminist Analysis’, Lois Pineau reiterates the difference between romance and reality with ‘ideological persuasiveness’, ‘romantic illusions’ and ‘false belief’. Here, romance is an unreal component that can pop out of reality. Pineau believes that the realm of fiction is the realm of fantasy, which has not been realized in the ‘truth’ of female erotic life. According to this view, the law ‘reflecting’ the rules of romantic fiction in the consent standard is wrong because it fails to reflect the new reality created by feminism.

### **Judicial Insensitivity and Validation of Myths and Stereotypes**

Rape is a serious offence and to understand how the judiciary deals with such offences task forces were created to measure the level of gender biasedness in the Courts of New Jersey and New York. In their first report both the task forces reported the presence of judicial insensitivity towards rape.<sup>23</sup>

These task forces have reported cases where a Wisconsin judge he described a rape to be normal because the five-year-old victim was ‘an unusually promiscuous young lady’; a Colorado judge described a sexual assault as ‘an attempted seduction’; a California judge held that a working prostitute could not be considered a rape victim; a Pennsylvania judge declared a suspect not guilty of attempted rape and aggravated assault because the guy was a ‘good-looking fellow’ and the victim was an ‘unattractive girl’ and the defendant had done ‘something stupid.’

The insensitivity of the judge can be seen in various other cases as well. In another case, the drunk defendant jumped into bed with the victim, raped her and then subsequently went to sleep in the same bed. The judge, in this case, states that ‘I think it started without consent, but maybe they ended up enjoying themselves.’

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<sup>23</sup>L. H. Schafran, “Documenting Gender Bias in the Courts: The Task Force Approach”, 70(5) *Judicature* 280 (1987).

In a case, in Milwaukee, the judge threatened to dismiss the case of the complainant if she did not stop crying. Circuit Judge Ralph Gorenstein said, ‘This is no 16-year-old schoolgirl. The woman was twice-divorced. You might say she was well-experienced in the school of life.’<sup>24</sup>

Due to such insensitivity, it is pertinent to educate the judges to provide them with a better understanding of the differences between vigorous cross-examinations that protects the defendant's rights and questioning that includes improper sex stereotyping and harassment of the victim.<sup>25</sup>

In the case of *R v. Seaboyer*,<sup>26</sup> the Supreme Court of Canada struck down a rape-shield provision as it was in violation with the right to full answer and defence provided under Section 7 and Section 11(d) of the Canadian Charter of Rights and Freedoms. In this 9-judge bench, Justice McLachlin for the majority stated that the rape-shield law was excluding relevant evidence by being unable to ask the victim about past sexual activity.

In her dissenting opinion, Justice L’ Heureux-Dube gave voice to the faulty and sexist logic used by the bench. Further elucidating her point Justice L’ Heureux-Dube said that the status quo surrounding rape myths have had severe consequences for sexual assault victims and maintaining sexual assault in society. She voiced out several myths and stereotypes relating to it:

- i. Struggle and Force: Woman as Defender of Her Honor: This myth feeds on the stand that a woman cannot be raped against her will. If she really wants to prevent the rape then she can do it.
- ii. Knowing the Defendant: The Rapist as a Stranger: There is a myth that the rapist has to be a stranger. A friend or relative cannot be a rapist.
- iii. Sexual Reputation: Women are categorized into one-dimensional types. They are maternal or they are sexy. They are good or they are bad.
- iv. General Character: A woman who drinks or smokes can be used to discredit her and her character and implies that she had consented to sex or had contracted to have sex for money.

<sup>24</sup>L. H. Schafran, “Gender Bias in the Courts: An Emerging Focus for Judicial Reform”, 21 *Arizona State Law Journal* 237 (1989).

<sup>25</sup>*Supra* note 23.

<sup>26</sup>*R. v. Seaboyer*, [1991] 2 S.C.R. 577

- v. **Emotionality of Females:** Females are assumed to be ‘more emotional’ than males. If the female is calm and not visibly upset then there is an assumption that nothing had happened and that she consented to it.
- vi. **Reporting Rape:** Two conflicting expectations exist concerning the reporting of rape. One is that if a woman is raped, she will be too upset and ashamed to report it, and hence most of the time this crime goes unreported. The other is that if a woman is raped, she will be so upset that she will report it. Both expectations exist simultaneously.
- vii. **Woman as Fickle and Full of Spite:** A myth exists that women are fickle and seek revenge against past lovers.
- viii. **The Female Under Surveillance: Is the Victim Trying to Escape Punishment?** It is assumed that the female's sexual behaviour is under the surveillance of her parents or her husband. To get back into the good books she blames the rapist and shows that she had no hand in it.
- ix. **Disputing That Sex Occurred:** There is another stereotype that females like to fabricate stories that include sexual activities.

When the perpetrators are permitted to use such myths and stereotypes to build a defence, this results in negating the fact that a sexual assault ever occurred and also impacts the position of women in society.

## VI. THE VALIDATION OF ‘NO’ MEANS ‘YES’

A problem arises when the ‘rape as romance’ and ‘no means yes’ myths are emulated in the legal discourse which leads to the institutionalization of these flawed concepts. Such flawed concepts deprive women of their autonomy and delegitimize their verbal expression. The interpretation of a woman’s will by a man is given precedence over the verbal articulation of a woman.

In the case of *R v. Hughes*,<sup>27</sup> the victim and the defendant were staying together at Bluey’s Horse Ranch on Magnetic Island. Over a course of time, both of them developed friendly relations and often gave each other massages. One night while on a koala trail somewhere near the Ranch both of the defendant confessed his love for the victim and his desire to have sex with her. The victim refused and said that ‘she did not want that.’<sup>28</sup> In both the

<sup>27</sup>*The Queen v. Gary Alan Hughes*, [1998] QCA 279.

<sup>28</sup>*Ibid.*

testimonies given by the victim and the defendant there was an agreement that there was a verbal refusal made by the victim. While the victim in her testimony said that she consistently refused until the defendant threatened to push her off the cliff, the defendant said that though she initially refused, she later consented to it.

Well, she never said yes. But she did respond. Well, I mean, she was thrusting with me and she was rubbing my back and kissing me and grabbing my - the back of my head.'

The defendant, in this case, ignored the verbal protest of the victim and interpreted her actions to mean that she was consenting, similar to the interpretation done by Harding in *The Boss's Virgin* and the stranger in *The Stranger in the Night*. He took it upon himself to differentiate between a genuine 'no' and a deceptive 'no' depriving the victim of her autonomy.

The legal framework has itself created space for non-verbal consent. Explanation 2 of Section 375 of the Indian Penal Code, 1860 defines consent as:

Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act.

The Indian laws negate the requirement of verbal consent to a sexual encounter by envisaging non-verbal communication.

In *R v. Hughes*, the judge elucidated further saying that "in the circumstances here, where the complainant was a virgin, forceful intercourse was not necessarily intercourse without consent," effectively reinstating the non-consensual, violent rape as sex, premised on the romantic notions of forced seductions.

## VII. REALISING THE DISTINCTION BETWEEN ENFORCED SUBMISSION AND ACTIVE CONSENT

Through extrapolation of the fictional narrative in the legal context, a distinction between enforced submission and active consent needs to be made. In fictional narratives the man enforces seduction on the woman who tries to resist the sexual encounter; however, instead of respecting the choice made by the woman, the man put a greater degree of force on her to

submit to his will.<sup>29</sup> The romantic discourse suggests that women want the men to be forceful against them even if they resist. Such acts of rape are normalised by the fictional narrative by justifying it as for hidden affection towards the woman.

Such a replication in the real-life would result in the violation of a woman's body and the denial of her rights. When judgements use the same line of thought as romance novels then women's oppression gets institutionalised. Judges have equated submission to mean consent as seen in the case of *Tukaram v. State of Maharashtra*.<sup>30</sup> Such an equation has reinforced the underlying assumption perpetuated by the romantic discourse of enforced submission to be justifiable.

Further, in the case of *DPP v. Morgan*,<sup>31</sup> the victim's husband had told the defendants that his wife would actually be enjoying the sexual intercourse and that she would struggle or try to resist. Acting on such a belief the defendants took the defence of mistake of fact. The defence of mistake of fact was premised on the assumption that the consent of the woman was deceptively manifested and the defendants could not rely upon her verbal articulation. Thus, when the judge accepted the defence of mistake of fact, this decision inculcated the rape myth perpetuated within the fictional narrative on the pretext of seduction and romance.

### VIII. CONCLUSION

The patriarchal norms of the society have premised the romantic genre and the flawed romantic tropes present in it. The internalization of such culture further reinforces patriarchy and the subjugation of the women and their sexuality.

Women are represented by qualities which are expected from them to be developed such as beauty, powerlessness, sexiness, *etc.*; while men are represented by qualities such as dominance, strength, aggressiveness, *etc.* Women are portrayed as objects that must be able to attract a man and be subjected to their sexual impulses.

These tropes form the underlying characterisation of female characters leading to the suppression and closeting of female desires. They are necessitated by their virtues to say 'no'

<sup>29</sup>A. Toscano, "A Parody of Love: The Narrative Uses of Rape in Popular Romance", 2(2) *Journal of Popular Romance Studies* (2012).

<sup>30</sup>*Tukaram v. State of Maharashtra*, AIR 1979 SC 185.

<sup>31</sup>*DPP v. Morgan*, [1975] 2 WLR 913.

even when they welcome the encounter. This had led to the proliferation of the myth that a woman's 'no' actually means 'yes'.

The judges have shown insensitivity towards the issue of rape and have often required proof of a physical injury to prove the existence of a non-consensual sexual encounter, effectively implying the irrelevancy of verbal protests which still amount to consent. Such a similarity between the romantic tropes in fictional narratives and in the legal discourse has reinforced the myths and stereotypes as the reality.

The analysis in the paper does not intend to suggest that the creative freedom of writers needs to be curtailed to avoid sexual assaults on women. The problem lies when the juristic reality reflects the same line of thought as seen in the romantic discourse. There is a need to separate the romantic discourse from the legal discourse as assimilation of both legitimises the defences accepted in the cases of *R v. Hughes*<sup>32</sup> and *DPP v. Morgan*.<sup>33</sup>

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<sup>32</sup>*Supra* note 2.

<sup>33</sup>*Supra* note 31.