

Case Note QLD - [R v Ali \[2025\] QCA 164](#)

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**Facts:** The appellant, a taxi driver, was convicted by a jury of one count of unlawful indecent assault, particularised as kissing the complainant on the face and/or neck one or more times without consent, after escorting the complainant, intoxicated and distressed, into her home and bedroom in the early hours of 16 August 2020.

The appeal relied on four grounds, this note focuses only on the 3<sup>rd</sup> ground regarding the element of indecent and whether directions on “sexual intention/gratification” were erroneous.

The central issue was whether the appellant's conduct kissing the complainant on the face and/or neck amounted to indecent assault. The defence argued that such conduct was not indecent per se and required proof of sexual intention or gratification. The appeal further contended that the jury should not have been invited to consider sexual gratification as part of the assessment.

The Court noted that indecency is assessed by reference to *time, place, and circumstances*, judged against the standards of ordinary decent people. Sexual intent is not an element of the offence, but evidence of sexual gratification or motivation can be relevant to whether the act is indecent.

### Finding

- Kissing the complainant on the face/neck without consent, in her bedroom, while she was intoxicated and distressed, and while the appellant lay on top of her, was capable of being indecent.
- It was proper for the trial judge to direct the jury that they could consider whether the assault was for sexual gratification in determining indecency.
- The element of indecency was therefore satisfied, and the verdict of unlawful indecent assault was open on the evidence.

**Notes for practice:** Scope of “indecent assault” as an element of the offence. Physical contact limited to kissing (face/neck) can suffice where the context renders it indecent; no need for contact with breasts/genitalia. Charge framing and particulars should squarely identify the conduct said to be indecent.

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